

No. PD-0810-19

TO THE COURT OF CRIMINAL APPEALS OF THE STATE OF TEXAS
FILED
COURT OF CRIMINAL APPEALS
3/16/2021
DEANA WILLIAMSON, CLERK

THE STATE OF TEXAS,
Appellant

v.

RICARDO MATA,
Appellee

APPEAL FROM CAUSE No. 13-17-00494-CR

TRIAL COURT CAUSE NUMBER CR-2611-16-B
93RD DISTRICT COURT OF HIDALGO COUNTY, TEXAS
HON. RODOLFO DELGADO, PRESIDING

APPELLEE'S BRIEF

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**ORAL ARGUMENT NOT
REQUESTED**

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Appellant

State of Texas

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POINT OF ERROR NUMBER ONE

The appellate court no longer has jurisdiction over this matter as it became Moot when the State and the Defendant reached a plea agreement, which was approved by the trial court7

INDEX OF AUTHORITIES

CASELAW

<i>Bd. of Adjustment of City of San Antonio v. Wende</i> , 92 S.W.3d 424, 427 (Tex. 2002).....	6, 8
<i>Meeker v. Tarrant Cty. Coll. Dist.</i> , 317 S.W.3d 754, 759 (Tex. App. 2010).....	6
<i>Miranda v. Arizona</i> , 384 U.S. 436, 86 S.Ct. 1602. 16 L.Ed.2d 694 (1966)	6, 7
<i>Murphy v. Hunt</i> , 455 U.S. 478, 481, 102 S. Ct. 1181, 1183, 71 L. Ed. 2d 353 (1982).....	6

STATEMENT REGARDING THE RECORD

The record in this appeal includes a 5-volume Reporter's record.

The reporter's record will be cited as "RR[volume] @[page] or "RR[volume]@[exhibit#]" Exhibits will be cited to as " See Exhibit X"

STATEMENT OF THE CASE

*Nature of the Case &
Course of Proceedings:*

By indictment, the State charged Defendant/Appellee with, Sexual Assault Child.

Trial Court's Disposition:

On October 30, 2018, the State and the Defendant reached a plea agreement that resulted in a 10-year Deferred Probation Sentence and dismissal of two counts of the indictment.¹

The indictment carried a range of punishment of 2 to 20 years and an optional fine up to \$10,000.

¹ See Exhibit 2, *Order of Deferred Adjudication and Community Supervision*

POINT OF ERROR NUMBER ONE

The appellate court no longer has jurisdiction over this matter as it became Moot when the State and the Defendant reached a plea agreement, approved by the trial court.

Statement of Facts

In the case at hand, Respondent Mata, filed a motion to suppress statements at the trial court. There was a hearing held on April 27, 2017, where the State argued that the defendant was first, not in custody when he was questioned about the facts of the case leading up to his traffic stop, and secondly, they argued that if he was in custody then the questions and his statements fell within the “public safety” exception to *Miranda*.²

On July 11, 2017, the Trial court ruled on Mata’s Motion to Suppress, and granted his motion. The Court made findings that the Defendant Mata was in fact in custody and therefore should have been afforded the protections of *Miranda*.³ In responding to the ruling by the Trial Court the State filed a Notice of appeal on July 31, 2017.

On October 30, 2018, Prosecutors for the State reached an agreement with Defendant Mata and offered to dismiss the first two counts of the Indictment, and

² RR2 See Also *Miranda v. Arizona* , 384 U.S. 436, 86 S.Ct. 1602. 16 L.Ed.2d 694 (1966)

³ See Exhibit number 1, Order Granting Defendant Mata’s Motion to Suppress

place Mata on Deferred Probation. The Trial Court accepted this recommendation from both the State and Mata, and the Mata was placed on probation and began his term on community supervision.⁴

It was not until July 12, 2019, that the 13th Court of Appeals rendered an opinion affirming in part and reversing in part the decisions of the trial court regarding the Motion to Suppress. The State has since file a Petition for Discretionary Review.

Mootness Doctrine

In deciding whether an issue is ripe for appeal the Court must consider whether the issue has reached a point of mootness. “The mootness doctrine prevents courts from rendering advisory opinions, which are outside the jurisdiction conferred by article II, Section 1 of the Texas Constitution.”⁵ In order for a case to remain actively on an appellate court docket the matter must retain a controversy, for the courts to decide, at every stage of the legal proceeding including the appeal.⁶ If a controversy ceases to exist, the issues presented are no longer “live” or the parties lack a legally cognizable interest in the outcome, and therefore the case becomes moot.⁷

⁴ See exhibit number 2, Order of Deferred Adjudication & Community Supervision

⁵ See mootness doctrine *Meeker v. Tarrant Cty. Coll. Dist.*, 317 S.W.3d 754, 759 (Tex. App. 2010)

⁶ See “controversy must exist” *Bd. of Adjustment of City of San Antonio v. Wende*, 92 S.W.3d 424, 427 (Tex. 2002)

⁷ See Id. Citing *Murphy v. Hunt*, 455 U.S. 478, 481, 102 S. Ct. 1181, 1183, 71 L. Ed. 2d 353 (1982)

Argument

In following the reasoning set out in *The Board of Adjustment of the City of San Antonio v. Wende* if the matter being litigated before the courts of appeal and higher, no longer have an active and “live” controversy, then the point is moot.⁸ Regardless of the arguments made by State’s Counsel about the *Miranda*⁹ exceptions and their applications, when the District Attorney’s office reached an agreement with the accused at the trial court level, and that agreement was then accepted and ruled upon by the court, any and all arguments regarding the admissibility of any statements have become moot. The *Order of Deferred Adjudication & Community Supervision* marked as exhibit 2, is proof of the parties all reaching an agreement in regard to the criminal conduct of this defendant. The State waived any further interest in litigating these points when they not only agreed to the sentence but also dismissed the first two counts on the defendant’s indictment.

⁸ See “controversy must exist” *Bd. of Adjustment of City of San Antonio v. Wende*, 92 S.W.3d 424, 427 (Tex. 2002)

⁹ See *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602. 16 L.Ed.2d 694 (1966)

PRAYER

WHEREFORE, PREMISES CONSIDERED, Appellee Mata Prays:

That this action be found Moot and dismiss the State's Appeal.

Respectfully Submitted,

O. Rene Flores, PC

/s/Mauricio A. Martinez

O. RENE FLORES, P.C.

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Counsel for Appellant

CERTIFICATE OF SERVICE

I hereby certify that on March 15, 2021, a true and accurate copy of the foregoing Appellee Brief was served in accordance with the rules on the following persons:

Emily Johnson-Liu
Assistant State Prosecuting Attorney
PO Box 13046
Austin, TX 78711

/s/Mauricio A. Martinez

O. RENE FLORES, P.C.

Mauricio A. Martinez

CERTIFICATE OF COMPLIANCE

Pursuant to TRAP 9.4(3), I hereby certify this Brief contains 1,354 words.

/s/Mauricio A. Martinez

O. RENE FLORES, P.C.

Mauricio A. Martinez

CERTIFICATE OF CONFERENCE

As required by Texas Rule of Appellate Procedure 10.1(a)(5), I certify that I have conferred, or made a reasonable attempt to confer, with all other parties which are listed below about the filing of this motion with the following results:

Emily Johnson-Liu
Assistant State Prosecuting Attorney
PO Box 13046
Austin, TX 78711

Reasonable attempts were made to reach counsel for the State regarding this Response, however Emily Johnson-Liu was unavailable.

/s/Mauricio A. Martinez

O. RENE FLORES, P.C.

Mauricio A. Martinez

CAUSE NO. CR-2611-16-B

STATE OF TEXAS	§	IN THE DISTRICT COURT
	§	
vs.	§	93 RD JUDICIAL DISTRICT
	§	
RICARDO MATA	§	HIDALGO COUNTY, TEXAS

**ORDER GRANTING DEFENDANT MATA'S MOTION TO
SUPPRESS STATEMENTS AND
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court considered Defendant Ricardo Mata's Motion to Suppress Statements. After a hearing, receiving evidence, hearing argument of counsel and considering briefing on the matter, this Court is of the opinion that said Motion to Suppress Statements should be and is hereby GRANTED and makes the following findings and conclusions.

FINDINGS OF FACT

I.

A traffic stop was initiated by Deputy Noe Canales from Hidalgo County Sheriff's Department on May 24, 2015. This traffic stop was ordered by Hidalgo County Sheriff's Investigator Chavez and which order was associated with an ongoing kidnapping investigation. It was believed at that time that Defendant Mata was suspect. (RR@6,16)

II.

At the time of the stop Defendant Mata was *detained* and not free to leave the side of the road by Deputy Canales. Subsequently, Investigator Chavez and Investigator Porraz arrived on site to interrogate him. Defendant Mata was not Mirandized. (RR@9)

III.

Investigators Chavez and Porraz did not Mirandize Defendant Mata before interrogating him on the side of the road. Rather, Defendant Mata was immediately accused by Investigator Porraz as being the kidnapper and confronted Defendant that "*they got him.*" These investigators continued interrogating aggressively and accusing Defendant Mata on the side of the road. Defendant finally stated he would help locate the girl if they let him go. Investigator Porraz informed Defendant he *would not* be free to leave. This interrogation continued without Defendant Mata receiving his Miranda warnings. The statements made by Defendant Mata on the side of the road here were in response to questioning from Investigator Porraz and Chavez. (RR@19-20,21,23, 27-29, 38,43,48,50)

IV.

Defendant Mata was placed in a marked Hidalgo County Sherriff's Department vehicle and transported away from the scene to the Hidalgo County Sherriff's Department. He was not free to leave but rather was in custody at this point. (RR@29)

V.

Once at the Sheriff's Department, Defendant Mata was awake all night prior to being interrogated by Investigator Lopez. Investigator Lopez did not Mirandize Defendant Mata prior to interrogating him. Investigator Lopez was not present at any time that Defendant Mata is alleged to have been Mirandized by anyone else. (RR@87)

VI.

Defendant Mata was alleged to have signed his Miranda Warning form at 8:00 am with Investigator Chavez. The Miranda Warning form did not contain a knowing, intelligent and voluntary waiver of Defendant's Miranda rights. (RR@68, 74) (State's Exhibit 2) Further,

Investigator Chavez was not the interrogator who took Defendant Mata's written statement. (RR@11, 65-66) The interrogation took place before and without a valid waiver of Defendant Mata's Miranda warnings. The waiver on the written statement of accused was obtained *after* the interrogation took place.

VII.

Investigator Lopez testified the interview began at 8:00 a.m. even though he was not present at the time Defendant was Mirandized by Investigator Chavez. Investigator Lopez did not document the correct time the interrogation began. Investigator Lopez admits he did not personally read Defendant Mata his Miranda rights prior to his interrogation. (RR@65,72) (State's Exhibit 3)

VIII.

Defendant Mata's interrogation lasted two (2) hours with no breaks in between. Investigator Lopez jotted notes down during his interrogation with Defendant Mata and typed the two (2) page statement with his own interpretation of what Defendant Mata told him *after* the interrogation was over. Defendant signed the Miranda Rights on the statement of accused *after* the interrogation and after Investigator's interpretation of Defendant Mata's statement was typed. (RR@65,68-72) (State's Exhibit 3)

IX.

Investigator Lopez authored the arrest warrant including as probable cause the "statement of accused" that Defendant gave Investigator Lopez two days prior. (RR@80,83) (Defendant's Exhibit 1)

CONCLUSIONS OF LAW

1. There are at least four general situations which may constitute custody: (1) when the suspect is physically deprived of his freedom of action in any significant way, (2) when a law enforcement officer tells the suspect that he cannot leave, (3) when law enforcement officers create a situation that would lead a reasonable person to believe that his freedom of movement has been significantly restricted, and (4) when there is probable cause to arrest and law enforcement officers do not tell the suspect that he is free to leave. [C]ustody is established if the manifestation of probable cause, combined with other circumstances, would lead a reasonable person to believe that he is under restraint to the degree associated with an arrest. (See Dowthitt v. State, 931 S.W.2d 244, 244(Tex.Crim.App. 1996))
2. Placing a suspect in a patrol vehicle can be the equivalent of taking the person into custody. (See Gonzalez v State, 501 S.W.2d 690 (Tex.Crim.App. 1979)) (defendant in custody because he was not free to leave when stopped for DWI and placed in patrol car while waiting for report on license.)
3. Under Texas Code of Criminal Procedure art. 38.22 section 2(a) and 3(a)(2) (written and oral statements respectively). When giving the constitutional warnings to a defendant, it is prudent to ask two questions: whether the suspect (1) understands these rights, and (2) waives them. See Wilson v. State, No. PD-0307-09, 2010 Tex.Crim.App. LEXIS 20(Tex.Crim.App. March 3, 2010) Cochran, J., concurring)
4. The Miranda Warnings serve to safeguard the constitutional rights against self-incrimination yet do not create any substantive rights. If statements are obtained in violation of its requirements, they are inadmissible unless used for impeachment

purposes. See Michigan v. Harvey, 494 US 344, 350 (1990); Harris v. New York, 401 US 222, 224-26 (1971)

5. The *Miranda* safeguards come into play whenever a person in custody is subjected to either express questioning or its functional equivalent. That is to say, the term “interrogation” under *Miranda* refers not only to express questioning, but also to any words or actions on the part of the police (other than those normally attendant to arrest and custody) that the police should know are reasonably likely to elicit an incriminating response from the suspect. The latter portion of this definition focuses primarily upon the perceptions of the suspect, rather than the intent of the police. (Rhode Island v. Innis, 446 U.S. 291, 292, 100 S. Ct. 1682, 1685, 64 L. Ed. 2d 297 (1980))
6. After police have administered the *Miranda* warnings to a defendant in custody, a statement acquired by them is not admissible at trial unless the suspect also waives his rights. A heavy burden rests on the government to show waiver. In the absence of evidence, the courts are to presume that a waiver did not occur. North Carolina v. Butler, 441 US 369, 373 (1979); Colorado v. Connelly, 479 US 157, 169 (1986); Robinson v. State, 851 SW2d 216, 223 (Tex.Crim.App. 1991)
7. The waiver must be knowing, intelligent and voluntary. *Miranda*, 384 US at 475; Robinson, 851 SW2d at 223.
8. The voluntariness element of the “waiver” seeks to ensure that the waiver was not brought about by anything other than the defendant’s free will. For Constitutional purposes, this means no governmental intimidation, coercion or deception. Colorado v. Connelly, 479 US 157, 169-70 (1986)

9. The knowing and intelligent elements of a waiver are separate from a voluntariness element and should be considered separately. Edwards v. Arizona, 451 US 477, 482-83 (1981)
10. For a waiver to be knowing and intelligent, it must be made with “full awareness of the nature of the right being abandoned and the consequences of the decision to abandon it.” Moran v. Burbine, 475 US 412, 421 (1986) Thus, something more is required than the mere showing that the warnings were given. Tague v. Louisiana, 444 US 469 (1980)(per curiam) (Court cannot presume a knowing and intelligent waiver simply from the giving of the warnings.)
11. In order to be admissible in any criminal proceeding, a written statement must show “on the face of the statement” either that defendant received *from the interrogator* the warnings of Article 38.22 section 2(a) or received from a magistrate the Article 15.17 warnings. (The arrestee must be advised he is not required to make a statement and that any statement made by him may be used against him.) (See Tex. Code Crim. Proc. Art 15.17)
12. Officers must give warning *before* any custodial interrogation. (See Missouri v. Seibert, 542 U.S. 600 (2004)) (Rejecting police practice of “question first” and then giving *Miranda* warnings.)

IT IS THEREFORE ORDERED that statements alleged to have been made by Defendant Ricardo Mata at the time he was detained on the side of the road and in response to direct questioning from Investigator Porraz, Chavez, and/or Deputy Canales are hereby suppressed and inadmissible in the trial of this matter.

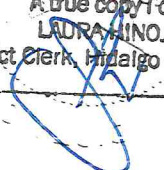
IT IS FURTHER ORDERED, the written Statement of Accused which was obtained without compliance with Defendant Mata’s constitutional and statutory rights guaranteed him by the

United States and Texas Constitutions and Article 38.22 of the Texas Code of Criminal Procedure
is hereby suppressed and inadmissible in the trial of this matter.

SIGNED ON JULY 11, 2017


JUDGE PRESIDING

Cc: FLORESLAW1@AOL.COM FOR THE Defense
Alex.aguirre@da.hidalgo.co.tx.us for the State

7/15/2024
DATE _____
A true copy I certify
LADRA HINOJOSA
District Clerk, Hidalgo County, Texas
By  Deputy #1

THE STATE OF TEXAS

§

IN 93RD DISTRICT COURT

VS.

§

OF

RICARDO MATA

§

HIDALGO COUNTY, TEXAS

SID: TX-06287332

OCT 30 2018

LAURA HINOJOSA, CLERK
District Courts, Hidalgo County
Deputy #32**ORDER OF DEFERRED ADJUDICATION
& COMMUNITY SUPERVISION**

DATE OF ORDER: October 30, 2018
VISITING JUDGE PRESIDING: ROBERT GARZA
COURT REPORTER: MARK KVAPIL
ATTORNEY FOR THE STATE: HOPE PALACIOS
ATTORNEY FOR THE DEFENDANT: OSCAR RENE FLORES
OFFENSE CODE: 11990002
OFFENSE: SEXUAL ASSAULT CHILD, AS
 CHARGED IN THE INDICTMENT
DATE OF OFFENSE: May 23, 2016
DEGREE OF OFFENSE: FELONY 2ND DEGREE
STATUTE FOR OFFENSE: 22.011(A)(2)
PUNISHMENT RANGE: 2-20 YEARS IN PRISON/MAX \$10,000
 (Including enhancements if any): FINE
CHARGING INSTRUMENT: INDICTMENT or INFORMATION
PLEA TO OFFENSE: GUILTY
TERMS OF PLEA AGREEMENT OR
FINDINGS OF THE COURT, TO WIT,
COMMUNITY SUPERVISION PERIOD: TEN (10) YEARS
FINE: \$1,000.00
RESTITUTION: NONE
TIME SPENT IN JAIL: 170 DAYS
DISMISS: CR-2611-16-B (COUNT ONE & TWO)
PLEA TO ENHANCEMENT NONE
PARAGRAPH(S):
FINDING TO ENHANCEMENT: NONE
FINDING ON DEADLY WEAPON: NONE
COURT COSTS: \$ 579.00

**DEFENDANT'S
EXHIBIT**

tabbies

2

On **OCTOBER 30, 2018**, the above numbered and entitled cause was regularly reached and called for trial, and the State appeared by **HOPE PALACIOS** and the Defendant and the Defendant's attorney, **OSCAR RENE FLORES**, were also present. Thereupon both sides announced ready for trial, and the Defendant, Defendant's attorney, and the State's attorney agreed in open court and in writing to waive a jury in the trial of this cause and to submit it to the Court. The Court consented to the waiver of a jury. The Defendant further waived the reading of the indictment or information, and, upon being asked by the Court as to how the Defendant pleaded, entered a plea of **GUILTY** to the offense of **SEXUAL ASSAULT**

CHILD, AS CHARGED IN THE INDICTMENT, FELONY 2ND DEGREE. Furthermore, as to the enhancement paragraphs, if any, the Defendant entered a plea of **NONE**.

Thereupon, the Court admonished the Defendant of the range of punishment attached to the offense, that any recommendation of the State is not binding on the Court, that the existence of a plea bargain limits the right of an appeal to only pre-trial matters raised and preserved, and that if the Defendant is not a citizen of the United States of America, a plea of guilty or no contest may result in deportation under federal law; it appeared to the Court that the Defendant was competent to stand trial and was not influenced in making said plea(s) by any consideration of fear or by any persuasion prompting a confession of guilt; and that the Defendant understood the admonitions of the Court and was aware of the consequences of the plea(s); and the Court received the free and voluntary plea(s), which are now entered of record in the minutes of the Court.

The Court then proceeded to hear evidence from the State and the Defendant and, having heard argument of counsel, found there was sufficient evidence to support the Defendant's plea and found the offense was committed on **MAY 23, 2016**, and made a finding of **NONE** on the enhancement paragraph(s), if any.

A pre-sentence investigation report **WAS NOT DONE** according to Article 42.12, Section 9, CCP.

However, the Court, after due consideration, is of the opinion and so finds that the best interests of society and the Defendant are served in this cause by deferring further proceedings without an adjudication of guilty.

It is, therefore, **ORDERED**, by the Court that further proceedings in this cause shall be and are hereby deferred. The Defendant is placed on community supervision for a period of **TEN (10) YEARS** with a fine of **\$1,000.00** subject to the conditions of supervision imposed by the Court in an Order that is hereby incorporated into this Order.

Order Imposing Conditions of Community Supervision

In accordance with the authority conferred by Article 42.12 of the Code of Criminal Procedure, the Court has placed the Defendant on community supervision in the above styled and numbered cause for the offense of **SEXUAL ASSAULT CHILD, AS CHARGED IN THE INDICTMENT** for a period of **TEN (10) YEARS**. The Court hereby **ORDERS** the Defendant to comply with the following conditions of community supervision:

1. Commit no offense against the laws of this State, or of any other State, or the United States.
2. Avoid injurious or vicious habits.
3. Avoid persons or places of disreputable or harmful character.
4. Obey all rules and regulations of the Hidalgo County Community Supervision and Corrections Department.
5. Permit the Supervision Officer to visit Defendant at Defendant's home or elsewhere.
6. Work faithfully at suitable employment as far as possible.
7. Remain within the limits of Hidalgo County, Texas, unless given permission to leave there from.
8. Support any dependents.

9. Attain an educational skill level that is equal to or greater than the average skill level of students who have completed the sixth grade in public schools in this State by participating fully in the Hidalgo County Community Corrections & Supervision Education and Employment Program beginning immediately, comply with the developmental training, and obey all rules and regulations of the program.
10. Report monthly in person to the Supervision Officer beginning immediately and continue as directed by the Supervision Officer.
11. **ATTEND TREATMENT or COUNSELING SESSION, including but not limited to psychological counseling, for SEX OFFENDERS** with the Hidalgo County Community Supervision & Corrections Department **SEX OFFENDER PROGRAM**, comply with the treatment, obey all rules and regulations of the program, and report immediately to the Sex Offender Program Supervision Officer, at 3100 S. Highway 281, Edinburg, Texas.
12. **PAY** part of the reasonable and necessary costs of sex offender treatment in monthly installments of **\$30.00**, beginning within 30 days from the date of this Order and continuing every month thereafter during the entire period of treatment in the Sex Offender Program, and payable to the Hidalgo County Community Supervision and Corrections Department, 3100 S. Highway 281, Edinburg, Texas.
13. **NOT GO IN, ON, or WITHIN 1000 FEET** of premises where **CHILDREN** commonly **GATHER**, including a school, day-care facility, playground, public or private youth center, public swimming pool, or video arcade facility.
14. **NOT PURCHASE, POSSESS, or ACCESS or VIEW**, sexually explicit visual or audio material on any medium; **INSTALL and ACTIVATE**, at Defendant's own cost, software approved by the Department and capable of blocking access to explicit material on any personal computer in Defendant's residence or any electronic device available; **PERMIT** the Supervision Officer or his Designee access at any time to any personal computer or electronic device in Defendant's residence or any electronic device available in order to monitor compliance.
15. **NOT SUPERVISE or PARTICIPATE** in any **PROGRAM** that includes as **PARTICIPANTS or RECIPIENTS**, persons who are **17 YEARS OF AGE OR YOUNGER** and that regularly provides athletic, civic, or cultural activities.
16. **PAY**, in addition to court costs or any other fee imposed, to the Hidalgo County Community Supervision & Corrections Department Supervision Officer a **COMMUNITY SUPERVISION FEE** in the amount of **\$5.00**, due on or before 30 days from the date of this Order and every month thereafter during the period of community supervision, and payable at the Hidalgo County Community Supervision & Corrections Department, 3100 S. Highway 281, Edinburg, Texas.
17. **PERMIT**, during the term of community supervision and on the basis of a "reasonable suspicion of criminal activity", any community supervision officer, government agency or their designee, to search Defendant's person, property, vehicle(s), residence or any place where Defendant may be living, with or without a search warrant.
18. **PRODUCE**, commencing immediately, for inspection and copying of any matters contained therein, to the Hidalgo County Community Supervision & Corrections Department or any government agency or their designees, any computer or electronic device which Defendant owns, possesses, or uses, including providing security codes, passwords, log on codes, or other access codes required to access the electronic device of computer's data, records, files, folders, databases, electronic mail, or any other computer or electronic information contained in said computers or electronic device.
19. **REGISTER** under **CHAPTER 62**, Code of Criminal Procedure.
20. **REIMBURSE** to the **TEXAS DEPARTMENT OF PUBLIC SAFETY** the amount of **\$144.00** for the **ANALYSIS** of blood for the purpose of creating a **DNA** record of the

Defendant said payment due **six (6) months** from the date of this Order and payable at the Hidalgo County Community Supervision and Corrections Department, 3100 S. Highway 281, Edinburg, Texas.

21. **SUBMIT** a **BLOOD SAMPLE OR OTHER SPECIMEN** to the Department of Public Safety under Subchapter G, Chapter 411, Government Code, for the purpose of creating a **DNA** record of the Defendant.
22. **PAY** part of the reasonable and necessary costs of sex offender treatment in monthly installments of **\$20.00**, beginning on or before 30 days from the date of this Order and continuing every month thereafter during the entire period of treatment in the Sex Offender Program, and payable to the Hidalgo County Community Supervision and Corrections Department, 3100 S. Highway 281, Edinburg, Texas.
23. **SUBMIT**, upon the request of Dr. Gregorio Pina or Jerry Amaya, licensed sex offender therapist, to a **POLYGRAPH EXAMINATION** by a state licensed/certified examiner as directed by the Hidalgo County Community Supervision & Corrections Department, 3100 S. Highway 281, Edinburg, Texas, for treatment and counseling purposes only, co-operate fully with the examiner, and immediately pay all costs and fees incurred therein.
24. **PAY** the **FINE** in the amount of **\$1,000.00** in monthly installments of **\$10.00** beginning **thirty (30) days** from the date of this Order and continuing every month thereafter until paid in full, payable at the Hidalgo County Clerk Collections Department, 100 N. Closner, Edinburg, Texas.
25. **Avoid bars, taverns, "cantinas", lounges, pool halls**, and all establishments whose primary business or source of income is selling or distributing alcoholic beverages.
26. **Avoid the use or abuse of any and all alcoholic beverages or mind-altering drugs** during the entire period of community supervision.
27. Make a payment in the amount of **\$8.00** for the cost of the analysis for alcohol or controlled substances, said payment due on the date of each analysis, and payable at the Hidalgo County Community Supervision & Corrections Department, 3100 S. Highway 281, Edinburg, Texas.
28. Make **one payment** on or before **ninety (90) days** from the date of this Order to the local **Crime Stoppers Program**, as defined by Section 414.001 of the Government Code and certified by the Crime Stoppers Advisory counsel, in the amount of **\$50.00**, payable at the Hidalgo County Community Supervision and Corrections Department, 3100 S. Highway 281, Edinburg, Texas.
29. **Pay a monthly fee** to the Court in the amount of **\$60.00** on or before **thirty (30) days** from the date of this Order, and continuing every month thereafter during the community supervision period, payable at the Hidalgo County Community Supervision & Corrections Department, 3100 S. Highway 281, Edinburg, Texas.
30. **Pay court costs** to the County of Hidalgo **within ninety (90) days** from the date of this Order payable at the Hidalgo County Clerk Collections Department, 100 N. Closner, Edinburg, Texas.
31. Submit to random testing for alcohol or controlled substances by authorized personnel of the Hidalgo County Community Supervision and Corrections Department.
32. **Work 240 hours** at a community service project(s) for an organization(s) approved by the Judge and designated by the Hidalgo County Community Supervision & Corrections Department at the rate of not less than **eight (8) hours** per week **beginning immediately** and continuing every week thereafter until completed in full.
33. Submit as directed by the Supervision Officer to other programs within the community supervision continuum of programs and sanctions designed to protect or restore the community, protect or restore the victim, or punish, rehabilitate, or reform the Defendant, and comply with the rules and regulations of such programs.

34. Make one payment in the amount of \$50.00 to **ESTRELLA'S HOUSE** on or before 30 days from the date of this Order, and payable at the Hidalgo County Community Supervision & Corrections Department, 3100 S. Highway 281, Edinburg, Texas.
35. Not communicate directly or indirectly with the victim, and not go within 1,000 feet of the Victim's residence, place of employment, or place of business.
36. Not communicate or associate in any way with co-defendants during the entire period of community supervision.
37. Pay all or part of the reasonable and necessary costs incurred by the victim for psychological counseling made necessary by the offense not to extend past one year from the date of this Order.

Furthermore, the following special findings or orders apply:

The Court finds that placing the Defendant on community supervision is in the best interest of the victim.

The Court finds that the Sex Offender Registration Requirements under Chapter 62, CCP, apply to the Defendant, and the age of the victim of the offense is **15 YEARS OF AGE**.

The Court finds that all court-ordered payments, if any, are suspended during the Defendant's custodial supervision, if any, and such payments shall be reinstated thirty days from the date of discharge from such custodial supervision.

The Court finds that **THERE IS** plea bargain agreement between the State and the Defendant.

The Court, upon the State's motion, **DISMISSED** the following count(s), case(s), or complaint(s): **CR-2611-16-B (COUNT ONE & TWO), 93RD DISTRICT COURT, HIDALGO COUNTY, TEXAS.**

The Court finds that the Defendant has spent **170 DAYS** in county jail.

The Defendant is hereby advised that, under the laws of the State of Texas, the Court shall determine the conditions of community supervision and may, at any time during the period of supervision, alter or modify the conditions of supervision. The Court also may extend the period of supervision and has the authority to revoke the community supervision at any time during the period of supervision for any violation of the conditions.

Signed on the 30 day of October, 2018.


Judge Presiding

JOSE MANUEL BAÑALES
Senior Judge, by Assignment

DATE

9/15/2021
A true copy I certify

LAURA HINOJOSA

District Clerk, Hidalgo County, Texas

By  Deputy

Receipt is hereby acknowledged on the date shown above of one copy of the above
Order.

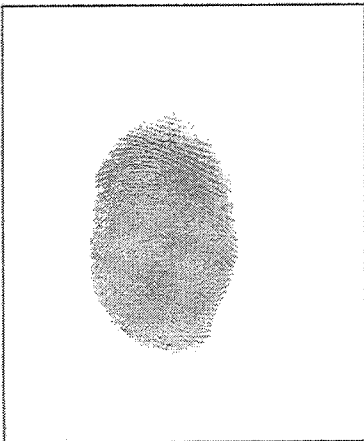
Richard M. R.
Defendant

[Signature]

Community Supervision Officer

JM

Defendant's right thumbprint



[Print this page](#)

Case # PD-0810-19

Case Information	
Location	Court Of Criminal Appeals
Date Filed	3/15/2021 6:13 PM
Case Number	PD-0810-19
Case Description	
Assigned to Judge	
Attorney	OSCAR RENE FLORES
Firm Name	O. Rene Flores, P.C.
Filed By	Debra Garcia
Filer Type	Not Applicable
Fees	
Convenience Fee	\$0.00
Total Court Case Fees	\$0.00
Total Court Party Fees	\$0.00
Total Court Filing Fees	\$0.00
Total Court Service Fees	\$0.00
Total Filing & Service Fees	\$0.00
Total Provider Service Fees	\$0.00
Total Provider Tax Fees	\$0.00
Total Taxes (for non-court fees)	\$0.00
Grand Total	\$0.00
Payment	
Account Name	Court Appointed
Transaction Amount	\$0.00
Transaction Response	
Transaction ID	
Order #	
Motion	
Filing Type	EFileAndServe
Filing Code	Motion
Motion Code	
Filing Description	Appellee's Motion To Dismiss
Reference Number	Mata, Ricardo
Comments	Thank You
Courtesy Copies	mmartinez@lobo.law
Status	Rejected
Fees	
Court Fee	\$0.00

Service Fee	\$0.00
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Rejection Information

Reason	Time	Comment
Other	3/16/2021 8:34 AM	Please title appellee's document as a brief rather than a moton to dismiss.

Documents

Lead Document	PD-0810-19 - Motion To Dismiss.pdf	[Original]
Attachments	Exhibit 1.pdf	[Original]
Attachments	Exhibit 2.pdf	[Original]

eService Details

Name/Email	Firm	Service Method	Status	Served	Date/Time Opened
Michael Morris michael.morris@da.co.hidalgo.tx.us		EServe	Sent	Yes	3/15/2021 10:32 PM
O. Rene Flores Floreslaw1@aol.com		EServe	Sent	Yes	Not Opened
Emily Johnson-Liu information@spa.texas.gov		EServe	Sent	Yes	3/16/2021 8:06 AM
OSCAR RENE FLORES oreneflores@lobo.law		EServe	Sent	Yes	Not Opened